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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ELVIS JONES,

Plaintiff,

v.

DR. KROLL, et al.,

Defendants.

Case No.: 16cv2370-LAB (JLB)

**ORDER ADOPTING REPORT
AND RECOMMENDATION;**

**ORDER GRANTING
DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT;**

**ORDER VACATING PRETRIAL
CONFERENCE; AND**

ORDER OF DISMISSAL

Plaintiff Elvis Jones, a prisoner in state custody, brought claims against several Defendants under 28 U.S.C. § 1983. The matter was referred to Magistrate Judge Jill Burkhardt for a report and recommendation. Claims against Dr. Krall (erroneously sued as Dr. Kroll) were dismissed, leaving Dr. Daub as the only Defendant. On July 6, 2018, Dr. Daub moved for summary judgment. After receiving briefing, Judge Burkhardt issued her 14-page report and recommendation (the “R&R”) on October 19, 2018, recommending that the motion be granted and Jones’ claims dismissed.

1 The R&R gave the parties until November 2 to file objections, and until
2 November 16 to file a reply to any objections that were filed. Jones moved for an
3 extension of time to file objections, which the Court granted. He filed a second
4 motion for extension of time, which the Court also granted. But before he received
5 the Court's order granting a second extension, he filed his third motion for an
6 extension of time (Docket no. 34) on December 6.

7 On December 11, the Court ordered that a copy of the R&R be mailed to
8 him, granted him a generous additional extension until January 24, 2019, which
9 was longer than he requested. The order warned him that only extraordinary
10 circumstances would justify any more extensions. It also pointed out that any
11 objections he might want to make to this R&R were very likely based on facts he
12 knew about, rather than legal standards or legal authorities he might have to spend
13 a great deal of time researching.

14 Jones filed no objections to the R&R, even after having been given ample
15 time and opportunity to do so. A district court has jurisdiction to review a Magistrate
16 Judge's report and recommendation on dispositive matters. Fed. R. Civ. P. 72(b).
17 "The district judge must determine de novo any part of the magistrate judge's
18 disposition that has been properly objected to." *Id.* "A judge of the court may
19 accept, reject, or modify, in whole or in part, the findings or recommendations
20 made by the magistrate judge." 28 U.S.C. § 636(b)(1). This section does not
21 require some lesser review by the district court when no objections are filed.
22 *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). The "statute makes it clear that the
23 district judge must review the magistrate judge's findings and recommendations
24 de novo *if objection is made*, but not otherwise." *United States v. Reyna-Tapia*,
25 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original).

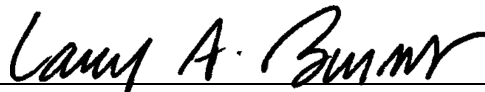
26 The Court has reviewed the R&R, finds it to be correct, and **ADOPTS** it. Dr.
27 Daub's motion for summary judgment is **GRANTED** and all claims against him are
28 **DISMISSED**. Because this disposes of all pending claims, the action as a whole

1 is **DISMISSED**. The Clerk is directed to enter judgment in favor of Defendants and
2 against Plaintiff, and to close the docket.

3 The pretrial conference currently on calendar for Monday, February 11, 2019
4 at 12:00 noon is **VACATED**. All other pending dates are **VACATED** and all
5 pending motions and requests are **DENIED AS MOOT**.

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7 **IT IS SO ORDERED.**

8 Dated: February 6, 2019

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11 Hon. Larry Alan Burns
12 Chief United States District Judge
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